

The Official Website of the Department of Revenue (DOR)

Department of Revenue

Mass Gov Home State Agencies State Online Services

DOR Home

For Individuals and Families

For Businesses

For Local Officials

For Tax Professionals

Home > Businesses > Help & Resources > Legal Library > Letter Rulings > Letter Rulings - By Year(s) > 1984 and Prior > 1983 Rulings >

SEARCH

Select an area to search

Search

Letter Ruling 83-21: Foreign Municipal Utility Corporation

March 25, 1983

You inquire whether the electric department of _____ ("Electric Department") must pay a utility corporation franchise tax under Massachusetts General Laws Chapter 63, Section 52A, or make payments in lieu of taxes as provided in General Laws Chapter 164A, Sections 7 and 8.

The Electric Department is a municipal corporation, formed under Vermont law, that provides electric power to consumers in the State of Vermont. In 1978, it acquired a .4401 per cent joint ownership interest in the Massachusetts Municipal Wholesale Electric Company Phase I Intermediate Unit, and became a member of the New England Power Pool. Aside from this interest, the Electric Department owns no interest in any Massachusetts electric company or other Massachusetts property, nor does the Electric Department otherwise do business in Massachusetts.

General Laws Chapter 63, Section 52A requires every utility corporation doing business in Massachusetts to pay a tax on its corporate franchise measured by its net income.

The Massachusetts statute governing the New England Power Pool, Chapter 164A of the General Laws, provides in Section 7(a) that:

"[a] foreign electric utility shall be subject to assessment and taxation in the same manner and to the same extent as is provided by law with respect to a corporation defined as an 'electric company' in section one of chapter one hundred sixty-four; except that a foreign electric utility which is a governmental entity shall, with respect to payments for franchise taxes to the commonwealth ...,make payments in lieu of such taxes in the manner provided by subsection (c) of...section eight."

Section 8(c) of Chapter 164A imposes on domestic municipal electric departments an annual payment in lieu of taxes measured by a percentage of the department's direct and indirect ownership interest in electric power facilities located in Massachusetts.

Based on the foregoing, it is ruled that the Electric Department is not subject to the franchise tax under Chapter 63, but must annually file returns with the Commissioner of Revenue and make payments in lieu of the franchise tax as provided in General Laws Chapter 164A, Sections 7 and 8.

Very truly yours,

/s/Ira A. Jackson

Ira A. Jackson

Commissioner of Revenue

IAJ:JXD:mf

LR 83-21

